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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,008	03/03/2004	Klemens Degen	113642-050	4255
43793	7590	08/15/2006	EXAMINER	
EVEREST INTELLECTUAL PROPERTY LAW GROUP P. O. BOX 708 NORTHBROOK, IL 60065			RODRIGUEZ, RUTH C	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/792,008	Applicant(s) DEGEN, KLEMENS	
	Examiner Ruth C. Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 13-15 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) 7 and 10-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hersker (US 4,809,399).

A spring clamp comprises a clamp mouth (Figs. 1-3). The clamping mouth has two clamping jaws (22,24) spring loaded towards one another by a spring (3) (Fig. 1) and are formed by first and second arms (1,2) that are connected to one another in an articulated manner at one end (by 4). The other ends form actuating sections that can be moved toward one another in order to open the clamping mouth (Figs. 1-3). The two clamping jaws are abutted together (Figs. 1-3). The two clamping jaws together with an articulation pin of the first and second arms define a plane of reference wherein the bisector angle between the two actuating sections is inclined at substantially 90 degrees to the reference plane (Figs. 1-3).

The one arm (2) of the first and second arms is substantially Y-shaped and the other arm (1) of the first and second arms is substantially L-shaped.

### ***Claim Rejections - 35 USC § 103***

Art Unit: 3677

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hersker in view of Veltz et al. (US 6,470,522 B2).

Hersker disclose a spring clamp having all the features mentioned above for the rejection of claims 1 and 2. Hersker fails to disclose that the spring clamp has a hook pivotally mounted to one of the actuation section. However, Veltz discloses a clamp (20) having a clamping mouth (32) with two clamping jaws (22) connected in an articulated manner and having two actuating sections (26,30). One of the actuating sections has a hook (42) pivotally mounted thereon (Figs. 1-6). The hook allows attachment of the clamp to bulky objects or to be stored in a pouch (C. 3, L. 39-41). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a hook pivotally connected to one of the actuating section in accordance with the teaching of Veltz in the clamp of Hersker. Doing so, allows attachment of the clamp to bulky object or to be stored in a pouch.

Hersker also teaches that:

- The hook, when pivoted in, is located in a substantially parallel position in relation to the actuating section (Figs. 1-6)
- The hook has a closure tongue (52).

- The closure tongue is urged by spring force into a closed position and is curved in a direction of an inside of the hook (C. 4, L. 45-48 and Figs. 1-6).

### ***Allowable Subject Matter***

5. Claims 13-15 are allowed.
6. Claims 7 and 10-12, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

7. Applicant's arguments filed 12 May 2006 have been fully considered but they are not persuasive.
8. The Applicant argues that Hersker fails to disclose, "the two clamping jaws together with an articulation pin of the first and second arms define a plane of reference wherein the bisector angle between the two actuating sections is inclined at substantially 90 degrees to the reference plane" and provides an illustration on page 7 of his response to support his position. The Applicant argues that substantially 90 degrees is "basically is basically inclined 90° to the reference plane (see Applicant's reference plane E, for example), but allows for some variation in the angle of inclination. That is, the angle of inclination covered by the claim need not be exactly 90°, although the angle of inclination is substantially 90°. Hersker does not have Applicant's claimed angle of substantially 90°." This argument fails to persuade. The Examiner

acknowledges that the illustration provided by the Applicant in page 7 proves that the bisector angle between the two actuating sections is not inclined at 90 degrees to the reference plane. However, the term substantially is not sufficient to overcome the prior art of record because substantially is considered the same as "approximately". The claim recites, "the bisector angle between the two actuating section is inclined at substantially 90 degrees to the reference plane". The term "substantially" is a very broad term that encompasses angles other than 90 degrees as is the case of Hersker. *In re Nehrenberg* (CCPA) 126 USPQ 383. Therefore, claim 1 remains rejected under 35 U.S.C. 102(b) as being anticipated by Hersker.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harrison (US 1,792,837), Bell (US 3,654,755), Dragan (US 4,106,374), Hersker (US 4,809,399), Farber (US 4,907,477), Rittmann et al. (US 4,934,222), Cedargreen et al. (US 4,965,958), Eggert et al. (US D 383,294), Chen (US 5,876,026), Shui-Shang (US 6,185,795 B1) and Veltz et al. (US 6,470,522 B2) are cited to show state of the art with respect to clamps that have some of the features claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

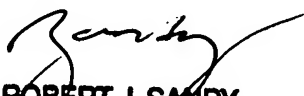
Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

rcr  
August 4, 2006

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**